

February 3, 2009

Madam Chairwoman and Members of the Local Government Committee,

Thank you for the opportunity to provide written testimony regarding SB 34. My name is Matthew Koehler and I'm a Montana resident and homeowner from Missoula who lives in the Wildlands Urban Interface. I'm also the executive director of the WildWest Institute, a Montana-based non-profit organization that helps craft positive solutions for our communities through bona-fide restoration and fuel reduction activities.

For example, our organization is a founding member of FireSafe Montana (www.firesafemt.org) and the Montana Forest Restoration Committee (www.montanarestoration.org). We are also deeply involved with collaborative forest management efforts on the Lolo and Bitterroot National Forest, which have recently earned the "Breaking Gridlock" award from the US Forest Service.

While the point of this legislation might not be very clear to the public or members of this committee, based on SB 34's actual language, the bill's lead sponsor, Senator Dave Lewis, was quite clear in a recent column he wrote about SB 34:

"The point of the legislation is that since the Forest Service is hampered by lawsuits every time a timber sale is proposed, county governments would have the ability to step in and reduce the risk, which might enable the work to get done." (Source: <http://www.headwatersnews.org/guest.lewis012609.html>)

This revelation might come as a surprise to some members of this committee, especially since the words "Forest Service" or "National Forests" never actually appear in the language of SB 34. This omission seems disingenuous to me and it should cause the members of this committee to question the real intent of SB 34.

Unfortunately, Senator Lewis is also mistaken about what is currently holding up fuel reduction activities on National Forest lands in Montana. While Senator Lewis states, "the Forest Service is hampered by lawsuits every time a timber sale is proposed," that's simply not true.

For example, right now there currently isn't one single lawsuit of a timber sale on the Lolo National Forest. Right now there currently isn't one single lawsuit of a timber sale on the Bitterroot National Forest. Even statewide, it's my understanding that currently there isn't a single court-ordered injunction of a timber sale anywhere in Montana.

Furthermore, the US Forest Service reports that in USFS Region 1 (which includes all of Montana and portions of northern Idaho) there are currently \$100 million worth of "shovel-ready," NEPA approved, non-litigation-halted restoration and fuel reduction projects just waiting for federal funding. (Source: <http://www.missoulian.com/articles/2009/01/02/news/local/news03.txt>).

The federal stimulus bill, which is currently making its way through the US Congress, should provide a sizeable shot of funding needed to complete much of this work. Currently, the House version of the stimulus bill includes \$850 million to reduce wildfire threats on public lands, with \$550 million to states for local projects and \$300 million for federal lands.

Perhaps a better use of the Montana Legislature's time is to work with Montana's Congressional delegation to ensure that a sizeable chunk of this federal funding finds its way onto National Forests in Montana. This way, Montana workers and the Forest Service could begin immediately implementing these \$100 million worth of "shovel-ready" restoration and fuel reduction projects.

Another problem with SB 34 is that it violates the US Constitution. In fact, Senator Lewis admits as much in that recent column about SB 34: "The biggest problem with the bill is that it may violate the federal Constitution." (Source: <http://www.headwatersnews.org/guest.lewis012609.html>).

I'm not sure what a bill that openly violates the US Constitution really gets us in the end. As far as I can, Senator Lewis proposes that Montana Counties declare parts of federal National Forest lands "decayed" because of a "natural accumulation of fuel for fire...." At that point, it appears that Montana counties would 1) march crews onto federal National Forest lands; 2) start cutting down trees; and 3) then send a bill to the federal government for doing that work.

This raises some serious questions. For starters, just what is the definition of "decay" as it relates to National Forest lands and who decides just what constitutes a "natural accumulation of fuel for fire?" And do you suppose the federal government is just going to sit by and let Montana counties go onto National Forest land and start cutting trees? What happens to those trees once they are cut down? Do you think the Forest Supervisor of the Lolo National Forest or the Helena National Forest is going to sit by and let this happen? On top of this, do you think the federal government is then going to pay back the counties?

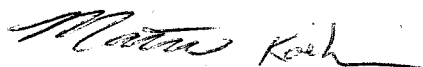
Do you think the federal government may intervene? Do you think the state of Montana or a Montana county might have a federal lawsuit on their hands? How much will this end up costing the Montana taxpayers? How does Montana's Attorney General feel about SB 34 and does the AG's office have extra time and resources on hand to deal with this federal lawsuit that is sure to surface?

Given the reality that there are currently \$100 million worth of "shovel-ready," NEPA-approved, non-litigated restoration and fuel reduction projects in Montana and northern Idaho just waiting for federal funding, SB 34 sends the wrong message.

When so much common ground has been achieved and stimulus funding is on the way to implement important projects that have broad support, SB 34 sends the wrong message and, in fact, likely would just interfere with the common ground that already exists. How does this move us forward?

Our organization is opposed to SB 34 because it violates the US Constitution and we believe it will just result in exorbitant legal costs for the state of Montana and taxpayers while actually getting nothing done, except perhaps increasing polarization on these issues when the fact remains that there is so much agreement on fuel reduction right around communities.

Sincerely,



Matthew Koehler
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